

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John Givin Chase, et al,
Appellant,

v.

Dickinson County Board of Review,
Appellee.

ORDER

Docket No. 13-30-0949
Parcel No. 06-13-276-017

On March 26, 2014, the above-captioned appeal came on for telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant John Givin Chase, et. al., was self-represented. Assistant County Attorney Lonnie Saunders represented the Board of Review. The Appeal Board, having reviewed the record, heard the testimony and being fully advised, finds:

Findings of Fact

The Chase Family Revocable Trust is the owner of a residentially classified property located at 4605 Lakeshore Drive, Okoboji, Iowa. The property is a two-story, frame home built in 1900 with 2980 square feet of total living area. The property also has a 484-square-foot detached garage with 610 square feet of living area above it, and a 72-square-foot shed attached to the garage. The site is 0.59 acres and has 138.79 effective front feet (EFF) on the shore of West Lake Okoboji.

Chase protested to the Board of Review regarding the 2013 assessment of \$1,668,600, allocated as \$1,518,600 in land value and \$150,000 in improvement value. He claimed the assessment was not equitable as compared to other like property and was for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). The Board of Review denied the petition.

Chase then appealed to this Board reasserting his claims. He believes the correct total value is \$1,316,263.

Chase provided eight properties he believes show his property's assessment is inequitable. The following grid is a summary of those properties.

Address	2013 Imp AV	2013 Land AV	2013 Total AV	EFF	Sale Price	Sale Date
Subject	\$150,000	\$1,518,600	\$1,668,600	138.79	N/A	N/A
4703 Lakeshore Dr	\$0	\$2,117,000	\$2,117,000	234.59	\$1,990,000	Mar-12
7001 Lakeshore Dr	\$224,900	\$1,028,100	\$1,253,000	111.15	\$862,500	Nov-11
5003 Lakeshore Dr	\$357,400	\$665,600	\$1,023,000	59.00	\$870,000	Jun-11
3803 Lakeshore Dr	\$125,900	\$569,600	\$695,500	50.50	\$540,000	Jan-14
2405 Lakeshore Dr	\$114,700	\$651,200	\$765,900	50.49	\$660,000	May-13
15501 213th Ave	\$144,800	\$553,200	\$698,000	53.50	\$665,000	Mar-12
1216 Morningside Dr	\$36,300	\$281,600	\$317,900	42.80	\$285,000	Jun-13
24466 182nd Street	\$94,900	\$331,700	\$426,600	54.08	\$300,000	Sep-11

Chase relies primarily on the sale of 4703 Lakeshore Drive. He believes it is very comparable to his property in size, location, and character, and is located just north of his property. Despite the site similarities, the improvements on the property were torn down prior to its 2011 sale. Because it was unimproved when it sold, its assessment is not comparable to the subject site, which is an improved lot. The IOWA REAL PROPERTY APPRAISAL MANUAL 2008, 2-4, distinguishes between an improved site and an unimproved site as follows: "When a site is described as 'improved' it means it is used in conjunction with an existing structure and has the necessary site improvements. These site improvements include grading and topsoil, landscaping, trees, and shrubs, etc. An 'unimproved' site will lack some or all these site improvements." For this reason, we do not find this site similar to the subject site for equity purposes.

Some of the other properties Chase identified are located on different lake than Chase's property: 15501 213th Street, 1216 Morningside Drive, and 24466 182nd Street. These other lakes have lower EFF pricing because they are not as desirable as West Lake Okoboji; therefore, we question their comparability to the subject property.

The remaining properties: 7001, 5003, 3803, and 2405 Lakeshore Drive are located on West Lake Okoboji, but none of them sold in 2012. Therefore, they are cannot be used to determine an assessment/sales ratio, which is required for an equity analysis. However, we note the unit pricing for these properties' EFF and Chase's unit price for EFF is \$12,000. Thus, the Assessor has applied a uniform assessment to the properties' land.

Chase did not adjust any of the sales for differences to establish a market value of the subject property as of January 1, 2013.

The Board of Review submitted a spreadsheet of twenty-three 2012 sales of properties located on West Lake Okoboji with \$12,000 EFF foot prices. The assessment/sale ratios ranged from 61.08 to 143.66 with a median of 102.99. It also submitted a spreadsheet of ten 2012 sales of properties located in the subject's immediate area. The assessment/sale ratios ranged from 61.08 to 123.68, with a median of 97.10. The EFF of these properties is unknown.

The Board of Review did not submit any evidence of the market value of the subject property based on compared sales.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Chase’s evidence did not establish inequity in the assessment under either test. Only two of the properties he submitted sold in 2012, and one of those is an unimproved lot whereas his property is an improved site. The other 2012 sale is located on a nearby lake that is inferior to the subject’s location, has a lower EFF pricing, and therefore, not considered sufficiently similar. Additionally, Chase did not assert the assessor applied an assessment method in a non-uniform manner to similarly situated properties.

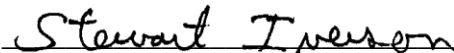
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Chase did not offer any evidence establishing the subject property's fair market value as of January 1, 2013, and, therefore, failed to show his property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 4605 Lakeshore Drive, Okoboji, Iowa, as set by the Dickinson County Board of Review is affirmed.

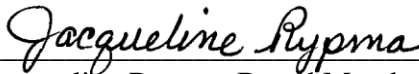
Dated this 9th day of April 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

John Givin Chase, et al
14324 W. Thorne Lane SW
Lakewood, Washington 98498
APPELLANT

Lonnie Saunders
Assistant County Attorney
1802 Hill Avenue, Suite 2509
Spirit Lake, Iowa 51360
ATTORNEY FOR APPELLEE